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COLORADO RIVER WATER CONSERVATION DISTRICT

The Colorado River Compact

If you listen to any discussion of water development in Colorado long enough, the topic of the Colorado River Compact will come up. The Colorado River Compact is an agreement crafted in 1922 among the seven U.S. states through which the Colorado River flows or borders, effectively dividing up the river's waters between upper and lower portions of the river basin. This landmark agreement created the framework for how the river is administered today.

Compacts are agreements between states that are ratified by Congress and therefore carry the weight of federal law. Over 195 compacts have been negotiated between states, a good number of them involving water issues.

The Colorado River Compact became necessary when federal courts began applying the Prior Appropriation Doctrine of "first in time, first in right" to interstate river disputes. Rapid development and the accompanied increase in water use by downstream states on the Colorado River, most notably in California, threatened future water use in upstream states such as Colorado and Wyoming which were not growing as rapidly. Without an interstate compact, water development in Colorado would have been at the mercy of how quickly other states could lay claim to the Colorado River's waters.

The Colorado River Compact of 1922 divided the length of the Colorado River into upper and lower drainage basins and allocated the river's water resources to two divisions of states closely mirroring the basins. The Lower Division includes the states of California, Nevada, Arizona and the Upper Division is composed of Colorado, Utah, Wyoming and New Mexico. The dividing point between the Upper and Lower Basins is at Lee Ferry, 30 miles below Arizona's northern border and just downstream of where Glen Canyon Dam and Lake Powell were eventually constructed.

The 1922 Compact stipulated that both the Upper and Lower Basins would each receive 7.5 million acre-feet of water, however, the document further clarifies that the Upper Basin must deliver 75 million acre-feet of water to the Lower Basin on a running ten-year basis. It was assumed by all the Compact's negotiators that there would be sufficient water available for the Upper Basin to receive its equivalent share. The Lower Basin would also be allowed to use up to an additional 1 million acre-feet of water from other

sources such as Lower Basin tributary rivers like the Gila River or other “surplus” water. Six of the seven basin states enjoined in the Compact approved this agreement quickly, except for Arizona, which took until 1944 to sign on to the Compact.

The Compact permits the U.S. government to acknowledge Mexico’s claim to water from the Colorado River, but did not specify how much water must pass across the border. This dispute was settled in 1944, when Mexico was apportioned 1.5 million acre-feet per year of Colorado River water. This agreement was arrived at in part to gain Mexico’s alliance during World War II and resolve issues concerning the Rio Grande River. Mexico’s allocation comes from surplus flows above the total of 15 million acre-feet apportioned to the Upper and Lower Basins, and in times of shortage, a 750,000 acre-foot reduction from both the Upper and Lower Basins guarantees Mexico’s share.

Congress ratified the Colorado River Compact through passage of the Boulder Canyon Project Act of 1928, which authorized construction of Hoover Dam and Lake Mead. In the text of the Act, Congress divided up the Lower Basin’s apportionment by assigning California 4.4 million acre-feet, Arizona 2.8 million acre-feet and Nevada 300,000 acre-feet. Arizona and California fought over this allocation until 1963 when the U.S. Supreme Court upheld the allocations set forth in 1928 and ruled on other contentious river issues.

The Upper Division states would need until 1948 to determine who received what portion of the Upper Basin’s allotment. However, by then it was realized that the Colorado River did not reliably produce as much water as was estimated in 1922, and so each of the Upper Division states received a percentage of the Upper Basin’s allocation and not a set number of acre-feet as each of the Lower Division states had been given. Colorado’s percentage was set at 51.75%, Utah receives 23%, Wyoming’s share is 14% and New Mexico is entitled to 11.25%.

How many acre-feet of Colorado River water Colorado is entitled to is still a matter of debate. Based on the assumptions used and interpretations of the rules specified by the 1922 and 1948 compacts and other agreements, numbers can vary wildly.